

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

ANDY KIM, et al.,

Plaintiffs,

v.

CHRISTINE GIORDANO HANLON,  
in her official capacity as Monmouth  
County Clerk, et. al.,

Defendants,

- and -

DALE A. CROSS, in his official  
capacity as Salem County Clerk, et al.,

as Interested Parties.

Civil Action No.: 24-1098 (ZNQ)(TJB)

**DECLARATION OF JENNIFER BOREK IN SUPPORT OF  
DEFENDANTS' MOTION IN LIMINE #1**

I, Jennifer Borek, of full age, hereby declare as follows:

1. I am a partner at the law firm of Genova Burns, LLC, counsel for defendants Christopher Durkin, Joanne Rajoppi, and Danielle Ireland-Imhof in the above captioned litigation. As such, I am familiar with the matters set forth herein.

2. Attached hereto as Exhibit A is a copy of a letter, dated January 22, 2024 from Yael Bromberg, Esq. to Andrew W. Appel.

3. Attached hereto as Exhibit B is a copy of a report by Andrew W. Appel that he signed on December 26, 2023.

4. Attached hereto as Exhibit C is a copy of a privilege log provided by Plaintiffs' counsel.

5. Attached hereto as Exhibit D is a copy of a letter, dated January 22, 2024, from Yael Bromberg, Esq. to Samuel Wang.

6. Attached hereto as Exhibit E is a copy of an invoice, dated February 15, 2024, from Dr. Sam Wang, Ph.D.

7. Attached hereto as Exhibit F is a copy of a letter, dated January 11, 2024 from Yael Bromberg, Esq. to Dr. Josh Pasek.

8. Attached hereto as Exhibit G is a copy of a letter, dated January 22, 2024, from Yael Bromberg, Esq. to Dr. Julia Sass Rubin.

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Dated: March 18, 2024

/s/ Jennifer Borek  
JENNIFER BOREK, ESQ.

# **EXHIBIT A**

**WEISSMAN & MINTZ LLC**

ATTORNEYS AT LAW

220 DAVIDSON AVENUE

SUITE 410

SOMERSET, NEW JERSEY 08873

(732) 563-4565

FAX (732) 560-9779

[www.weissmanmintz.com](http://www.weissmanmintz.com)

90 BROAD STREET

SUITE 254

NEW YORK, NEW YORK 10004

(212) 509-0918

JOEL N. WEISSMAN (1957-1998)

MARK ROSENBAUM (1955-2002)



STEVEN P. WEISSMAN  
ANNMARIE PINARSKI  
WILLIAM G. SCHIMMEL  
IRA W. MINTZ  
FLAVIO L. KOMUVES  
JASON L. JONES  
JUSTIN SCHWAM  
PATRICIA A. VILLANUEVA

Of Counsel  
ROSEMARIE CIPPARULO  
BRETT M. PUGACH  
ADAM M. GORDON  
Yael Bromberg

Counsel  
DAVID A. MINTZ\*

\* ADMITTED TO PRACTICE ONLY IN NEW YORK

**BROMBERG LAW LLC**

Yael Bromberg, Esq., Principal\*

T: (212) 859-5083 | F: (201) 586-0427

[ybromberg@bromberglawllc.com](mailto:ybromberg@bromberglawllc.com)

43 West 43<sup>rd</sup> Street, Suite 32

New York, NY 10036-7424

P.O. Box 1131

Glen Rock, NJ 07452-1131

CONFIDENTIAL COMMUNICATION

January 22, 2024

**VIA ELECTRONIC MAIL**

Andrew W. Appel  
43 Philip Drive  
Princeton, NJ 08540

**Re: Andy Kim, Voting Rights Litigation**

Dear Dr. Appel,

This will confirm that we have engaged you to provide analysis and/or expert testimony regarding the impact of ballot placement and design laws and practices with respect to New Jersey primary elections.

This letter sets forth the terms and conditions of the engagement. Unless later modified in writing, this letter will remain in effect through the duration of the engagement and certain provisions will survive the completion of the engagement.

**1. Nature of Engagement**

You have been retained by Weissman & Mintz LLC and Bromberg Law LLC ("client-attorneys") in our capacity as counsel in the above-referenced matter in relation to litigation that is anticipated to be filed in Federal District Court in New Jersey, on behalf of Andy Kim and other potential plaintiffs. Your engagement is as an independent contractor and not as an employee of any plaintiff ("Plaintiff") or of the client-attorneys in any current or future litigation that may result from the above-referenced matter. Although fees for your work may be paid

WEISSMAN & MINTZ LLC  
BROMBERG LAW LLC

Anderw Appel  
January 22, 2024

directly by outside entities such as a legal defense fund or one or more clients, this billing arrangement does not alter the fact that you have been retained by Weissman & Mintz LLC and Bromberg Law LLC, from whom you will receive authorizations and to whom you will report. Payment to you is not dependent upon the findings which you render, nor on the outcome of any legal action, or the amount or terms of any settlement of the underlying legal cause, nor on any contractual arrangement between the client-attorneys and any other person or party.

**2. Purpose of Engagement**

The purpose of your engagement is to provide advice and consultation in your field of expertise and to form expert opinions that may be presented in an expert report regarding ballot design and election administration, specifically the capability of New Jersey voting machines to support office-block voting. You have been retained based on your specialized knowledge, skill, experience, training, and education to assist us as counsel in our effort to understand certain technical or specialized issues in the case, and to present opinions in a report that will assist the Court in understanding the evidence or in determining the facts that are disputed by the parties. At all times we expect that you will exercise your best independent and professional judgment with respect to all aspects of this engagement, and that you will provide complete, accurate, and honest opinions that are not subjective or biased in any way. We want and expect you to be entirely objective and independent.

**3. Protocol for Forming Expert Opinions**

In forming any opinions and consulting on the subject matter of your engagement, we ask that you (a) inform yourself of all facts and information that you deem sufficient for purposes of forming such opinions, (b) base your opinions on principles and methods that are deemed reliable in your field of expertise, and (c) apply those principles and methods in a reliable fashion to the facts presented in this case. We will not restrict in any way your access to whatever facts and information you desire to review in forming your opinions. Indeed, we will use best efforts to ensure that you are provided whatever materials and information you deem appropriate to form an independent, reliable, and objective opinion.

**4. Facts & Information Upon Which You Rely**

Regarding the facts and data on which you are consulting and any expert opinions you form are based, it is very important that you preserve and maintain a record of what particular facts and information are made available to you. Should you be designated as a witness to present evidence at trial, you may be required to disclose in a comprehensive manner all such facts and information. You also may be required to affirm, if true, that all such facts and information on which you relied in forming your opinions generally are of the type that experts in your field reasonably rely upon in forming opinions or inferences.

For this reason, we will monitor closely what materials you are provided. We will be keeping close track of the particular facts and information that are made available to you, and you agree to keep us informed of the specific analyses or investigations that you intend to undertake before they are commenced. Should you consult or consider additional

WEISSMAN & MINTZ LLC  
BROMBERG LAW LLC

Anderw Appel  
January 22, 2024

materials or information after your opinion is disclosed, we may need to supplement our disclosures. Accordingly, you agree to keep us apprised of any such materials or information that you may take into consideration, even after your opinion is finalized.

**5. Contacts at Law Firms**

Your contacts for this engagement will be Weissman and Mintz, LLC, including Flavio L. Komuves, Member and Brett M. Pugach, Of Counsel, as well as Bromberg Law LLC, including Yael Bromberg, Principal. The client-attorneys are co-counsel in this matter.

**6. Compensation and Reimbursement of Expenses**

You will prepare a comprehensive expert witness report outlining your research, studies, and conclusions pertaining to ballot design and election administration, specifically the capability of voting machines to support office-block voting. Unless otherwise agreed to by the parties, the expert report shall be provided to the client-attorneys no later than January 29, 2024. Payment for your services in connection with the comprehensive expert witness report, including all work, studies, research, analysis, communications, and other tasks leading up to delivery of the final comprehensive expert witness report and a supplemental and/or rebuttal report, if any, shall be paid at the hourly rate of \$500 for all time reasonably spent, with a cap of \$3,500. The provisions of this agreement, including but not limited to those related to payment, apply to work performed prior to the date this agreement bears. Any additional expert witness reports shall be provided no later than 15 days prior to the date set by the court for providing same; however, the client-attorneys can accelerate the due date in the event there are emergent proceedings or other time-sensitive internal and external deadlines.

Payment for additional expert services above and beyond that provided to prepare the comprehensive expert witness report and additional supplemental or rebuttal reports as outlined above, as deemed necessary for the litigation by the client-attorneys, which might include, for example and among other items, attending meetings and providing advice and consultation, sitting for a deposition, testifying at trial, etc., shall be at the hourly rate of \$500.00 for all time reasonably spent on this matter, including but not limited to preparation of any additional related reports, advice and consultation, and preparation for and attendance at any appearances for deposition or trial.

The hourly rate set forth herein shall be increased by \$15 on January 1 of each year, beginning with January 1, 2025.

Periodically and upon respective completion, you shall invoice the client-attorneys for hours spent on the comprehensive expert witness report, and separately for all hours spent on any supplemental or rebuttal expert report. subject to the respective caps set forth above. For hours spent on this matter outside of preparation of the comprehensive expert witness report and any supplemental or rebuttal expert report, you shall invoice the client-attorneys periodically for all time billed. The invoice shall be sent to the client-attorneys each time you

WEISSMAN & MINTZ LLC  
BROMBERG LAW LLC

Anderw Appel  
January 22, 2024

have reached 20 hours of work on the matter, and at that time you must seek and receive written approval from the client-attorneys for further work. We may agree to invoices and approval for further work at a different hourly threshold or interval, or to monthly billing upon the written agreement of all parties. Payment for all reasonable time set forth in such invoices shall be made within 30 days of receipt of same.

You agree to confer with us prior to incurring any additional fees and expenses. Consistent with the last sentence of § 1 of this Agreement, neither your entitlement to be compensated nor the amount of your compensation is dependent on the particular conclusions you reach.

You also will be reimbursed for travel expenses for any travel outside the metropolitan area of your residence and other expenses reasonably incurred in connection with the engagement. Please include such reasonable expenses in your invoices to the undersigned.

You agree to provide, upon request, budgets or estimates of expenses for your work as an expert. To the extent that you anticipate any large expenses that may need to be paid to outside vendors as necessary to complete your research and related expert witness reports, you shall first notify and receive permission for such expenses and engagements from the client-attorneys, and the parties shall engage in good faith discussions as to whether such expenses shall be incurred and whether they should be invoiced to You or billed directly.

## **7. Confidentiality and Non-Disclosure**

Independent of, and in addition to, any formal protective orders, you agree to keep all information regarding this matter, including the fact of your engagement, strictly confidential, and you shall not disclose such information to anyone outside of employees, contractors or assistants whose services you may use in completing your work under this Agreement, Plaintiffs, and their legal counsel, nor shall you use such information for any purpose other than in discharge of your engagement herein. This undertaking of confidentiality and non-disclosure will continue even after the engagement is completed or the case resolved. Notwithstanding the foregoing, you may disclose the fact of your engagement only after the defendants in this matter are formally made aware of your engagement.

You understand and agree that among the Confidential Information that must be kept in strict confidence includes, but is not limited to, the following: All nonpublic information obtained from client-attorneys and/or their agents, any communications with and information, data, and documents received from or shared with client-attorneys and/or their agents, your and your employees / contractors / assistants' notes, analysis, research, etc. in connection with this matter, your and your employees / contractors / assistants' selections of which otherwise public information you or they think are relevant, your and your employees / contractors / assistants' own impressions and analyses of otherwise public or nonpublic information, and any other documents, materials, and information which would reasonably be considered to be confidential.

You agree to protect all Confidential Information against unauthorized disclosure using the same degree of care, but no less than a reasonable degree of care, as you do to protect your



WEISSMAN & MINTZ LLC  
BROMBERG LAW LLC

Anderw Appel  
January 22, 2024

own confidential information of like nature. You shall not discuss this Confidential Information with or supply any documents containing Confidential Information to anyone not authorized by this agreement, unless you have obtained the prior written consent of the client-attorneys, or are otherwise forced, compelled, or required to disclose such information by operation of law or applicable government authority, or in response to a lawful subpoena.

You shall not transmit any documents containing Confidential Information electronically to any individual without suitable encryptions/password protection to prevent use or access in violation of this confidentiality clause of this Agreement.

If you must disclose Confidential Information to employees, contractors or assistants whose services you may use in completing your work under this Agreement and who have a legitimate need to know about the Confidential Information, prior to doing so you shall inform the recipient in writing that the documents and/or information are confidential pursuant to the terms of this agreement, shall not be disclosed to any other person, shall obtain the signature of the person to whom Confidential Information is disclosed on the Undertaking Form annexed hereto, and immediately return the signed Undertaking Form to Plaintiffs' counsel.

You agree that upon conclusion of this engagement you will deliver to us any and all notes, documents or other materials (including electronic data and information) that you received, generated, or developed during the course of this engagement. If you have any questions now or in the future about what you can or cannot say about this case or your engagement, you agree to inquire of Plaintiffs' counsel before saying anything. In order to be effective, any permission to disclose such information shall be in writing, explicit, and signed by the undersigned prior to disclosure.

If you are served with a request or demand to disclose information related to this case or your engagement (e.g., a subpoena), you agree to immediately notify the client-attorneys of such request or demand before providing any such information. The Plaintiffs and the client-attorneys reserve the right to object to and litigate any proceedings relating to the effectiveness or enforcement of the request.

## **8. Conflicts of Interest**

We understand that you have performed a conflicts of interest check to determine whether there is any impediment to your engagement, and you have informed us that there is none. In addition, you have confirmed that you have not been previously retained by any other client on an engagement involving the same subject matter as this engagement, where your prior work would in any way undermine your ability to perform this engagement.

During such time that you are providing services in this matter, you will not work for or assist another person or entity in a proceeding in which any Plaintiff is an adverse party, such as a lawsuit, arbitration, or contested regulatory proceeding, nor shall you work for or assist another person or entity in preparing an adversarial proceeding against any Plaintiff. Plaintiffs do not waive or consent to any future conflicts that may arise as a result of your engagement in this



WEISSMAN & MINTZ LLC  
BROMBERG LAW LLC

Anderw Appel  
January 22, 2024

matter and requires that you avoid any such conflicts. In no event shall you be permitted to use or disclose any of Plaintiffs' confidential information for the benefit of other clients.

The client attorneys will keep you informed if any additional parties are added.

**9. Designation as Testifying Expert**

Until you are designated as a testifying expert to present evidence at trial or preliminary injunction hearing, you will solely be serving in a consulting capacity and the fact of your engagement will not be known to the other parties in the case. In the event your report and opinions in this matter are disclosed and you are later designated as a trial witness, you agree now to make best efforts to be available to testify in any deposition, trial, hearing, arbitration, mediation or other proceeding that may be scheduled, provided that you are given reasonable notice of such an appearance. If you are designated as a testifying expert, you likely will be required to share with opposing counsel all of the materials on which you relied in forming your opinions—and you may be required to share all materials that you reviewed—including your notes and drafts.

You understand the importance to client-attorneys of maintaining continuity in relying upon the same expert witness at various stages of litigation, and agree to be available for all court and other appearances deemed necessary by the client-attorneys to comply with all court deadlines and internal deadlines set by the client-attorneys. The duration of services shall continue through the term of litigation and disposition of the court, and any subsequent remands, or until written release by the client-attorneys.

**10. Jurisdiction**

This agreement and contractual relationship shall be interpreted under the laws of the State of New Jersey. Any litigation under this agreement shall be resolved in the trial courts of the State of New Jersey.

If this letter accurately sets forth your understanding of the terms and conditions of your engagement, please countersign below and return via email.

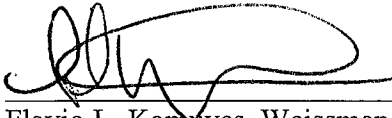
We look forward to working with you in this matter and are grateful for your expertise.

[Signature Page Follows]

WEISSMAN & MINTZ LLC  
BROMBERG LAW LLC

Anderw Appel  
January 22, 2024

Many thanks,

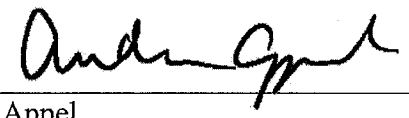
  
Flavio L. Komuves, Weissman & Mintz LLC 1/24/24

  
1/22/2024

Yael Bromberg, Bromberg Law LLC

THE FOREGOING TERMS AND CONDITIONS HAVE BEEN REVIEWED AND ARE  
ACCEPTED.

Andrew Appel

By:   
Andrew Appel

Dated: January 24, 2024

## Undertaking Form

### Confidentiality Agreement

The undersigned shall maintain Confidential Information in strict confidence. Confidential Information includes, but is not limited to, the following: All nonpublic information obtained from client-attorneys and/or their agents, any communications with and information, data, and documents received from or shared with client-attorneys and/or their agents, the consultant's or your notes, analysis, research, etc. in connection with this matter, the consultant's or your selections of which otherwise public information he or you think are relevant, the consultant's or your own impressions and analyses of otherwise public or nonpublic information, and any other documents, materials, and information which would reasonably be considered to be confidential.

The undersigned agrees to protect all Confidential Information against unauthorized disclosure using the same degree of care, but no less than a reasonable degree of care, as they do to protect their own confidential information of like nature. The undersigned shall not discuss any Confidential Information with or supply any documents containing Confidential Information to anyone not authorized by this agreement, unless the undersigned has obtained the prior written consent of the client-attorneys, or is otherwise forced, compelled, or required to disclose such information by operation of law or applicable government authority, or in response to a lawful subpoena. In such instances where such disclosure is force, compelled, or required by law, the undersigned will discuss same first with the client-attorneys prior to providing any such Confidential Information.

The undersigned shall not transmit any documents containing Confidential Information electronically to any individual without suitable encryption/password protection to prevent use or access in violation of this confidentiality clause of this Agreement.

### Undertaking

The following individuals hereby acknowledge that they have read the above Confidentiality Agreement, and will comply with all of the terms and conditions agreed therein including, but not limited to, not disclosing any of the Confidential Information to any person or entity not authorized under this Agreement.

	NAME (Print)	Title	Signature	Date
1.	_____			
2.	_____			

3. \_\_\_\_\_

4. \_\_\_\_\_

5. \_\_\_\_\_

# **EXHIBIT B**

From: Andrew W. Appel

To: Flavio Komuves

Date: December 26, 2023

Re: Capability of New Jersey's Voting Equipment to handle Office-Block Ballots

I have been asked to assess whether New Jersey's voting equipment can accommodate an "office block" ballot format, in contrast to the row-and-column format that is now used. The answer is yes, the voting equipment used in New Jersey can accommodate office-block voting. Furthermore—regarding voting machines that New Jersey might purchase in the future—because the major voting-machine vendors sell in a national market, in which many states already use office-block ballots, new voting systems are designed to accommodate office-block ballots.

**My qualifications:** I am a Professor of Computer Science at Princeton University. I received an A.B. (1981) from Princeton University summa cum laude in Physics, and a PhD (1985) from Carnegie Mellon University in Computer Science. I have over 40 years of experience in computer science, and 18 years of experience studying voting machines and elections. I have testified on election technology before the U.S. House of Representatives (subcommittee on information technology, 2016), the New Jersey legislature (several committees, on several occasions 2005-2018), the Superior Court of New Jersey (Mercer County, 2009; Cumberland County, 2011), the New York State Board of Elections (2019), the Freeholders of Mercer County (2017 and 2019) and Essex County (2019). I have been qualified as an expert witness on voting machines in the Superior Court of New Jersey (Mercer, 2009; Cumberland, 2011) and the U.S. District Court for the Northern District of Georgia (2019). I have published over 140 scientific articles and books, including many papers on computer security and several papers on voting machines, election technology, and election audits. Since 2008 I have published over 90 blog articles<sup>1</sup> about election machinery on freedom-to-tinker.com. I attach my CV as an appendix to this report.

I am being compensated for my time in preparing this report at the rate of \$500 per hour. My compensation is not contingent on reaching or reporting any particular conclusions.

### Office-Block versus Row-and-Column ballots

For an election in which there are several separate contests (such as Governor, Senator, Legislator, Mayor, etc.) each with several candidates, all to be displayed on the same sheet of paper or voting-machine screen, there are different ways that the ballot can be laid out. A civics textbook published in 1909, *Elements of Civil Government* by Alexander Peterman, illustrates the two basic layouts: "office-block", where each contest ("office") is in a single compact block with all the candidates listed; and "row-and-column" in which offices are in the rows and the parties are listed in the columns, or vice versa. I reproduce these illustrations here.<sup>2</sup>

---

<sup>1</sup> See <https://www.cs.princeton.edu/~appel/voting>

<sup>2</sup> From *Elements of Civil Government*, by Alexander L. Peterman, American Book Company, 1909. Accessed at the Library of Congress, <https://www.loc.gov/item/09028732/>.

**PART OF MASSACHUSETTS OFFICIAL BALLOT, NOVEMBER, 1908.**

(981) To vote for a Person, mark a Cross X in the Square at the right of the Party Name, or Political Designation. **X**

GOVERNOR . . . . . Mark ONE.		CONGRESSMAN — Tenth District . . . . . Mark ONE.	
JAMES F. CAREY — of Haverhill . . . . . Socialist	<input type="checkbox"/>	J. MITCHELL GALVIN — of Boston . . . . . Republican	<input type="checkbox"/>
EBEN S. DRAPER — of Hopedale . . . . . Republican	<input type="checkbox"/>	CHARLES J. KIDNEY — of Boston . . . . . Independence League	<input type="checkbox"/>
WALTER J. HOAR — of Worcester . . . . . Socialist Labor	<input type="checkbox"/>	JOSEPH F. O'CONNELL — of Boston . . . . . Democratic	<input type="checkbox"/>
WILLIAM N. OSGOOD — of Lowell . . . . . Independence League	<input type="checkbox"/>	HAZARD STEVENS — of Boston . . . . . Free Trader	<input type="checkbox"/>
JAMES H. VAHEY — of Watertown . . . . . Democratic	<input type="checkbox"/>		
WILLARD O. WYLIE — of Beverly . . . . . Prohibition	<input type="checkbox"/>		
LIEUTENANT GOVERNOR . . . . . Mark ONE.		COUNCILLOR — Second District . . . . . Mark ONE.	
CHARLES J. BARTON — of Melrose . . . . . Democratic	<input type="checkbox"/>	ALBION F. BEMIS — of Brookline . . . . . Republican	<input type="checkbox"/>
JOAO CLAUDINO — of New Bedford . . . . . Socialist Labor	<input type="checkbox"/>	CHARLES G. KIDDER — of Taunton . . . . . Independence League	<input type="checkbox"/>
LOUIS A. FROTHINGHAM — of Boston . . . . . Republican	<input type="checkbox"/>		
JOHN HALL, Jr. — of West Springfield . . . . . Socialist	<input type="checkbox"/>		
ROBERT J. MCCARTNEY — of Kingston . . . . . Independence League	<input type="checkbox"/>		
FRANK N. RAND — of Haverhill . . . . . Prohibition	<input type="checkbox"/>		
		SENATOR — First Norfolk District . . . . . Mark ONE.	
		JAMES E. FOLEY — of Randolph . . . . . Democratic	<input type="checkbox"/>
		JOHN J. GALLAGHER — of Hyde Park . . . . . Socialist	<input type="checkbox"/>
		EUGENE C. HULTMAN — of Quincy . . . . . Republican	<input type="checkbox"/>

Office-block ballot from Massachusetts, 1908. Peterman, p. 186

**PART OF INDIANA STATE TICKET, NOVEMBER, 1908.**

(981) To vote for a Person, make a X within one circle and not elsewhere.

Democratic Ticket.		Republican Ticket.		Prohibition Ticket.		People's Party Ticket.	
DEM. <input type="checkbox"/>	For Governor, THOMAS R. MARSHALL.	REP. <input type="checkbox"/>	For Governor, JAMES E. WATSON.	PROB. <input type="checkbox"/>	For Governor, SUMNER W. HAYNES.	PEOP. <input type="checkbox"/>	For Governor, FRED J. S. ROBINSON.
DEM. <input type="checkbox"/>	For Lieutenant-Governor, FRANK J. HALL.	REP. <input type="checkbox"/>	For Lieutenant-Governor, FLEMING GOODWIN.	PROB. <input type="checkbox"/>	For Lieutenant-Governor, ABRAHAM HUNTSINGER.	PEOP. <input type="checkbox"/>	For Lieutenant-Governor, ORLANDO L. ROSS.
DEM. <input type="checkbox"/>	For Secretary of State, JAMES F. COX.	REP. <input type="checkbox"/>	For Secretary of State, FRED A. SIMS.	PROB. <input type="checkbox"/>	For Secretary of State, WILLIAM H. HILL.	PEOP. <input type="checkbox"/>	For Secretary of State, RICHARD BONEWITZ.
DEM. <input type="checkbox"/>	For Auditor of State, MARION BAILEY.	REP. <input type="checkbox"/>	For Auditor of State, JOHN C. BILLHEIMER.	PROB. <input type="checkbox"/>	For Auditor of State, HENRY COONS.	PEOP. <input type="checkbox"/>	For Auditor of State, JAMES B. REEVES.
DEM. <input type="checkbox"/>	For Treasurer of State, JOHN ISENHART.	REP. <input type="checkbox"/>	For Treasurer of State, OSCAR RADLEY.	PROB. <input type="checkbox"/>	For Treasurer of State, WILLIAM H. CROWDER.	PEOP. <input type="checkbox"/>	For Treasurer of State, AARON McDONALD.

Row-and-column ballot from Indiana, 1908. Peterman, p. 187

### Mechanical lever voting machines

Mechanical voting machines were invented just before 1900, and during much of the 20<sup>th</sup> century, some New Jersey counties were using mechanical lever-action voting machines. In such a machine, each small lever is directly connected to an odometer-like counter. A mechanical interlock prevents overvotes (that is, voting for more than one candidate in the same contest) by preventing more than one lever in the same row from being turned. This interlock is fairly simple to implement in a row-and-columns layout, but would be more complex in an office-block format. Hence, the use of mechanical machines necessitated a rows-and-columns layout. Computerized voting machines, such as all the ones now in use in New Jersey, are not subject to this mechanical limitation.



### Voting Equipment Used in New Jersey

Each New Jersey county purchases its own voting machines and EMS (election management system), and may choose from any equipment certified by the Secretary of State (based on advice from a statutory voting-machine examination committee). At present, the counties use the following equipment as shown in the following table.<sup>3</sup>

#### Polling place voting machines used in New Jersey

Type of Equipment	Make	Model
Hand-Fed Optical Scanner	Dominion	ImageCast Precinct
Hand-Fed Optical Scanner	ES&S	DS200
Hand-Fed Optical Scanner	ES&S	DS300
Hybrid Optical Scan/DRE	Dominion	ImageCast Precinct ATI
Ballot Marking Device	Dominion	ImageCast X BMD
Ballot Marking Device	ES&S	ExpressVote
Hybrid BMD/Tabulator	ES&S	ExpressVote XL
DRE-Push Button	Sequoia (Dominion)	AVC Advantage
DRE-Touchscreen	Dominion	ImageCast X DRE

#### Mail ballot/absentee equipment used in New Jersey

Type of Equipment	Make	Model
Batch-Fed Optical Scanner	Dominion	ImageCast Central
Batch-Fed Optical Scanner	ES&S	DS450
Batch-Fed Optical Scanner	ES&S	DS850
Batch-Fed Optical Scanner	ES&S	DS950
Remote Ballot Marking System	Democracy Live	OmniBallot Online

<sup>3</sup> Source of this data: Verified Voting Foundation, <https://verifiedvoting.org/verifier> I am on the Board of Technical Advisers of Verified Voting; I have used this database many times over the past 15 years, and have found it to be reliable.

## Analysis

New Jersey counties use voting machines from four different manufacturers' product lines: Dominion, ES&S, Sequoia, and Democracy Live. I will assess each product line individually.

**Dominion:** Several NJ counties (Bergen, Burlington, Cumberland, Essex, Mercer, Salem, Somerset) use Dominion Voting Systems's suite of "ImageCast" equipment first introduced in about 2009. These are relatively modern designs, all compatible with each other, marketed and used in many states, including some states that use office-block voting. For example, a sample ballot from Armstrong County, PA (for the November 2023 municipal general election) shows an office-block ballot.<sup>4</sup> Armstrong County uses the same line of Dominion equipment (ImageCast Precinct, ImageCast X BMD) as New Jersey does.

**ES&S DS series:** Many NJ counties (Atlantic, Bergen, Camden, Cape May, Gloucester, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset, Sussex, Union, Warren) use Election Systems and Software's "DS" suite of equipment first introduced in approximately 2010: polling-place optical scanners DS200 and DS300, central-count optical scanners DS450, DS850, DS950, and ballot-marking devices ExpressVote and ExpressVote XL. These voting machines are used in many states, including those that use office-block ballot layouts. For example, a sample ballot from McPherson County, South Dakota has an office-block layout.<sup>5</sup>

**The ES&S ExpressVote** is a small-screen touchscreen ballot-marking device. It presents only one contest at a time to the voter, that is, one contest per screen. Therefore it most naturally supports the office-block format.

**The ES&S ExpressVote XL** is a full-face touchscreen all-in-one (ballot-marking and ballot printing) voting machine. Although no state currently using the ExpressVote XL does so with an office-block format, several pieces of evidence suggest that it is possible:

- ES&S's brochure for this machine says it "Supports many layout options, including grid style for party voting in rows or columns. This configuration can easily be managed by jurisdictions, allowing for the most efficient use of the ExpressVote XL screen."<sup>6</sup>
- The State of Washington, which uses office-block ballots generally, approved the ExpressVote XL as a ballot-marking device,<sup>7</sup> which suggests that there is no limitation to a row-and-column format.
- The ExpressVote XL has the capability to present contests on more than one screen, as the ExpressVote does, so it also could support an office-block layout in that manner.

<sup>4</sup> <https://co.armstrong.pa.us/images/departments/votersregistration/sampleballots/ballots-fall/ballots-municipal/ELECTION%20DAY%20Applewold%20Borough-ID%204.pdf> accessed December 26, 2023.

<sup>5</sup> <https://mcpherson.sdcourties.org/files/2020/09/2020-General-Election-SAMPLE-Ballot.pdf> accessed December 26, 2023.

<sup>6</sup> [https://www.essvote.com/storage/2021/10/ExpressVote\\_XL-One-Sheet.pdf](https://www.essvote.com/storage/2021/10/ExpressVote_XL-One-Sheet.pdf) accessed December 26, 2023.

<sup>7</sup> <https://www.sos.wa.gov/sites/default/files/2023-12/ES%26S%20EVS%206.4.0.0%20staff%20report.pdf> Report of the Secretary of State on the examination of Election Systems & Software EVS 6.4.0.0, November 2023.

- The Pro V&V test report<sup>8</sup> on the ExpressVote XL lists several limitations: “does not offer open primary support, does not support Massachusetts Group Vote, does not support Universal Primary Contest, does not support Multiple Target Cross Endorsement,” and so on, but the report does not indicate (in its discussion of the ExpressVote XL) any limitation regarding office-block contests.

**Sequoia:** Many counties adopted the Sequoia AVC Advantage voting machine between 2000 and 2004. Dominion now services this machine, but it is not part of their ImageCast product line that I discuss above. Only Burlington County still uses this machine, and only in election-day precincts (in early voting, Burlington uses Dominion’s ImageCast product line). I studied this machine intensely in 2008.<sup>9</sup> I know of no reason that it could not support an office-block ballot layout. This machine is obsolete: it was designed in 1988, it does not produce a paper trail (voter-verifiable paper ballot) and thus cannot be used (by NJ statute) in early vote centers; it is difficult to get parts for. By 2008, all but two of New Jersey’s counties were using it, but now only Burlington county uses it.

**Democracy Live OmniBallot** is an online ballot return system that some New Jersey counties allow overseas military voters and voters with disabilities to use. Democracy Live’s demonstration video shows this system being used with an office-block ballot.

## Conclusion

New Jersey counties use these product lines of voting machines:

Dominion ImageCast, ES&S DS series, ES&S ExpressVote, and Democracy Live Omniballot, all of which can definitely support an office-block ballot and are used with office-block formats in other states.

ES&S ExpressVote XL, for which there is evidence that it can support an office-block ballot but which has not yet been used that way in any jurisdiction.

Sequoia AVC Advantage, for which there is no evidence that it cannot support an office-block ballot, which is obsolete, which is difficult to maintain or get parts for, which (unlike every other voting machine used in New Jersey polling places) has no voter-verifiable paper trail, which (for these reasons) all but one New Jersey county abandoned and which (for these reasons) is unlikely to be used for much longer in any county.

Signed on \_\_December 26\_\_, 2023



Andrew W. Appel

<sup>8</sup> Test Report for EAC VVSG 1.0 Certification Testing Election Systems & Software (ES&S) Voting System (EVS) 6.1.0.0, by Pro V&V, Inc., November 2019. This report was used by the U.S. Election Assistance Commission as the basis for certifying the ExpressVote XL.

[https://www.eac.gov/sites/default/files/voting\\_system/files/ESS\\_EVS6100\\_Test\\_Report\\_Rev\\_02.pdf](https://www.eac.gov/sites/default/files/voting_system/files/ESS_EVS6100_Test_Report_Rev_02.pdf)

<sup>9</sup> See Insecurities and Inaccuracies of the Sequoia AVC Advantage 9.00H DRE Voting Machine, by Andrew W. Appel, Maia Ginsburg, Harri Hursti, Brian W. Kernighan, Christopher D. Richards, and Gang Tan, October 2008. <https://www.cs.princeton.edu/~appel/papers/advantage-insecurities-redacted.pdf>

# **EXHIBIT C**

**PLAINTIFFS' PRIVILEGE LOG - Sam Wang Expert**

<b>Date</b>	<b>Time</b>	<b>From</b>	<b>To</b>	<b>Subject Matter</b>	<b>Privilege</b>	<b>Basis for Privilege</b>
12/18/2023	10:44AM	Yael Bromberg	Sam Wang	Scheduling time to speak	Attorney work product	Attorney work product
12/18/2023	2:17PM	Sam Wang	Yael Bromberg; Yi Liu	Scheduling time to speak	Attorney work product	Attorney work product
12/18/2023	3:41PM	Yael Bromberg	Sam Wang; Yi Liu; Brett Pugach; Flavio Komuves	Scheduling a time to speak	Attorney work product	Attorney work product
12/18/2023	3:54PM	Sam Wang	Yael Bromberg; Yi Liu; Brett Pugach; Flavio Komuves	Scheduling a time to speak	Attorney work product	Attorney work product
12/18/2023	4:56PM	Yi Liu	Yael Bromberg; Brett Pugach; Flavio Komuves	Scheduling a time to speak	Attorney work product	Attorney work product
12/20/2023	4:00PM	Brett Pugach	Yi Liu; Yael Bromberg; Flavio Komuves	Scheduling a time to speak	Attorney work product	Attorney work product
12/21/2023	10:13AM	Yi Liu	Yael Bromberg; Brett Pugach; Flavio Komuves	Invitation for 12/21 Meeting	Attorney work product	Attorney work product

**PLAINTIFFS' PRIVILEGE LOG - Julia Sass Rubin Expert**

<b>Date</b>	<b>Time</b>	<b>From</b>	<b>To</b>	<b>Subject Matter</b>	<b>Privilege</b>	<b>Basis for Privilege</b>
12/23/2023	6:38PM	Julia Sass Rubin	Brett Pugach	Possible Expert Engagement	Attorney work product	Attorney work product
12/23/2023	9:26PM	Brett Pugach	Julia Sass Rubin	Possible Expert Engagement	Attorney work product	Attorney work product
12/23/2023	9:31PM	Julia Sass Rubin	Brett Pugach	Possible Expert Engagement	Attorney work product	Attorney work product
12/29/2023	1:03PM	Julia Sass Rubin	Brett Pugach	Scheduling a time to speak	Attorney work product	Attorney work product
1/5/2024	3:11PM	Brett Pugach	Julia Sass Rubin	Scheduling a time to speak	Attorney work product	Attorney work product
1/5/2024	3:11PM	Julia Sass Rubin	Brett Pugach	Scheduling a time to speak	Attorney work product	Attorney work product
1/5/2024	3:12PM	Brett Pugach	Julia Sass Rubin	Scheduling a time to speak	Attorney work product	Attorney work product
1/5/2024	5:32PM	Julia Sass Rubin	Brett Pugach	Scheduling a time to speak	Attorney work product	Attorney work product
1/5/2024	6:54PM	Brett Pugach	Julia Sass Rubin	Scheduling a time to speak	Attorney work product	Attorney work product
1/5/2024	6:55PM	Julia Sass Rubin	Brett Pugach	Scheduling a time to speak	Attorney work product	Attorney work product

**PLAINTIFFS' PRIVILEGE LOG - Josh Pasek Expert**

<b>Date</b>	<b>Time</b>	<b>From</b>	<b>To</b>	<b>Subject Matter</b>	<b>Privilege</b>	<b>Basis for Privilege</b>
12/18/2023	1:27PM	Brett Pugach	Josh Pasek	Possible Expert Engagement	Attorney work product	Attorney work product
12/18/2023	1:28PM	Josh Pasek	Brett Pugach	Scheduling a time to speak	Attorney work product	Attorney work product
12/18/2023	3:04PM	Josh Pasek	Brett Pugach	Possible Study Design	Attorney work product	Attorney work product
12/18/2023	7:07PM	Brett Pugach	Josh Pasek	Scheduling a time to speak	Attorney work product	Attorney work product
12/18/2023	7:11PM	Josh Pasek	Brett Pugach	Scheduling a time to speak	Attorney work product	Attorney work product
12/18/2023	8:29PM	Brett Pugach	Josh Pasek	Scheduling a time to speak	Attorney work product	Attorney work product
12/19/2023	11:00AM	Brett Pugach	Josh Pasek	Scheduling a time to speak	Attorney work product	Attorney work product
12/19/2023	11:03AM	Josh Pasek	Brett Pugach	Scheduling a time to speak	Attorney work product	Attorney work product
12/19/2023	11:28AM	Brett Pugach	Josh Pasek	Scheduling a time to speak	Attorney work product	Attorney work product
12/19/2023	2:24PM	Brett Pugach	Josh Pasek	Scheduling a time to speak	Attorney work product	Attorney work product



## PLAINTIFFS' PRIVILEGE LOG - Andrew Appel Expert

Date	Time	From	To	Subject Matter	Privilege	Basis for Privilege
12/18/2023	12:28PM	Flavio Komuves	Andrew Appel	Possible Expert Work	Attorney work product	Attorney work product
12/18/2023	1:51PM	Andrew Appel	Flavio Komuves	Possible Expert Work	Attorney work product	Attorney work product
12/18/2023	2:22PM	Flavio Komuves	Andrew Appel	Possible Expert Work	Attorney work product	Attorney work product
12/22/2023	10:59AM	Flavio Komuves	Andrew Appel; Yael Bromberg; Brett Pugach	Possible Expert Work	Attorney work product	Attorney work product
12/22/2023	11:04AM	Andrew Appel	Flavio Komuves	Possible Expert Work	Attorney work product	Attorney work product
12/22/2023	1:10PM	Flavio Komuves	Andrew Appel; Brett Pugach	Possible Expert Work	Attorney work product	Attorney work product
12/26/2023	11:18AM	Brett Pugach	Andrew Appel	Possible Expert Work	Attorney work product	Attorney work product
12/26/2023	11:30AM	Andrew Appel	Flavio Komuves	Draft of Expert Report	Attorney work product	Attorney work product

# **EXHIBIT D**

## WEISSMAN & MINTZ LLC

ATTORNEYS AT LAW

220 DAVIDSON AVENUE

SUITE 410

SOMERSET, NEW JERSEY 08873

(732) 563-4565

FAX (732) 560-9779

[www.weissmanmintz.com](http://www.weissmanmintz.com)

STEVEN P. WEISSMAN  
ANNMARIE PINARSKI  
WILLIAM G. SCHIMMEL  
IRA W. MINTZ  
FLAVIO L. KOMUVES  
JASON L. JONES  
JUSTIN SCHWAM  
PATRICIA A. VILLANUEVA

Of Counsel  
ROSEMARIE CIPPARULO  
BRETT M. PUGACH  
ADAM M. GORDON  
Yael Bromberg

Counsel  
DAVID A. MINTZ\*

\* ADMITTED TO PRACTICE ONLY IN NEW YORK

90 BROAD STREET  
SUITE 254  
NEW YORK, NEW YORK 10004  
(212) 509-0918

JOEL N. WEISSMAN (1957-1998)  
MARK ROSENBAUM (1955-2002)



## BROMBERG LAW LLC

Yael Bromberg, Esq., Principal\*  
T: (212) 859-5083 | F: (201) 586-0427  
[ybromberg@bromberglawllc.com](mailto:ybromberg@bromberglawllc.com)

43 West 43<sup>rd</sup> Street, Suite 32  
New York, NY 10036-7424

P.O. Box 1131  
Glen Rock, NJ 07452-1131

CONFIDENTIAL COMMUNICATION

January 22, 2024

### VIA ELECTRONIC MAIL

Sam Wang  
Princeton Neuroscience Institute A55  
Princeton, NJ 08540

**Re: Andy Kim, Voting Rights Litigation**

Dear Dr. Wang,

This will confirm that we have engaged you to provide analysis and/or expert testimony regarding the impact of ballot placement and design laws and practices with respect to New Jersey primary elections.

This letter sets forth the terms and conditions of the engagement. Unless later modified in writing, this letter will remain in effect through the duration of the engagement and certain provisions will survive the completion of the engagement.

### 1. Nature of Engagement

You have been retained by Weissman & Mintz LLC and Bromberg Law LLC ("client-attorneys") in our capacity as counsel in the above-referenced matter in relation to litigation that is anticipated to be filed in Federal District Court in New Jersey, on behalf of Andy Kim and other potential plaintiffs. Your engagement is as an independent contractor and not as an employee of any plaintiff ("Plaintiff") or of the client-attorneys in any current or future litigation that may result from the above-referenced matter. Although fees for your work may be paid

WEISSMAN & MINTZ LLC  
BROMBERG LAW LLC

Sam Wang  
January 22, 2024

directly by outside entities such as a legal defense fund or one or more clients, this billing arrangement does not alter the fact that you have been retained by Weissman & Mintz LLC and Bromberg Law LLC, from whom you will receive authorizations and to whom you will report. Payment to you is not dependent upon the findings which you render, nor on the outcome of any legal action, or the amount or terms of any settlement of the underlying legal cause, nor on any contractual arrangement between the client-attorneys and any other person or party.

**2. Purpose of Engagement**

The purpose of your engagement is to provide advice and consultation in your field of expertise and to form expert opinions that may be presented in an expert report regarding the effect of ballot placement and design laws and practices with respect to New Jersey primary elections. That includes, but is not limited to, ballot display and the likelihood of such outcomes, as well as the cognitive-psychological impact of the visual design characteristics on voter behavior. You have been retained based on your specialized knowledge, skill, experience, training, and education to assist us as counsel in our effort to understand certain technical or specialized issues in the case, and to present opinions in a report that will assist the Court in understanding the evidence or in determining the facts that are disputed by the parties. At all times we expect that you will exercise your best independent and professional judgment with respect to all aspects of this engagement, and that you will provide complete, accurate, and honest opinions that are not subjective or biased in any way. We want and expect you to be entirely objective and independent.

**3. Protocol for Forming Expert Opinions**

In forming any opinions and consulting on the subject matter of your engagement, we ask that you (a) inform yourself of all facts and information that you deem sufficient for purposes of forming such opinions, (b) base your opinions on principles and methods that are deemed reliable in your field of expertise, and (c) apply those principles and methods in a reliable fashion to the facts presented in this case. We will not restrict in any way your access to whatever facts and information you desire to review in forming your opinions. Indeed, we will ensure that you are provided whatever materials and information you deem appropriate to form an independent, reliable, and objective opinion.

**4. Facts & Information Upon Which You Rely**

Regarding the facts and data on which you are consulting and any expert opinions you form are based, it is very important that you preserve and maintain a record of what particular facts and information are made available to you. Should you be designated as a witness to present evidence at trial, you may be required to disclose in a comprehensive manner all such facts and information. You also may be required to affirm, if true, that all such facts and information on which you relied in forming your opinions generally are of the type that experts in your field reasonably rely upon in forming opinions or inferences.

For this reason, we will monitor closely what materials you are provided. We will be keeping close track of the particular facts and information that are made available to you,

WEISSMAN & MINTZ LLC  
BROMBERG LAW LLC

Sam Wang  
January 22, 2024

and you agree to keep us informed of the specific analyses or investigations that you intend to undertake before they are commenced. Should you consult or consider additional materials or information after your opinion is disclosed, we may need to supplement our disclosures. Accordingly, you agree to keep us apprised of any such materials or information that you may take into consideration, even after your opinion is finalized.

**5. Contacts at Law Firms**

Your contacts for this engagement will be Weissman and Mintz, LLC, including Flavio L. Komuves, Member and Brett M. Pugach, Of Counsel, as well as Bromberg Law LLC, including Yael Bromberg, Principal. The client-attorneys are co-counsel in this matter.

**6. Compensation and Reimbursement of Expenses**

You will prepare a comprehensive expert witness report outlining your research, studies, and conclusions pertaining to ballot design, cognitive-psychological impact, and electoral outcomes and probability related to the visual display of ballot design features prevalent in New Jersey's primary election ballots. Unless otherwise agreed to by the parties, the expert report shall be provided to the client-attorneys no later than January 29, 2024. Payment for your services in connection with the comprehensive expert witness report, including all work, studies, research, analysis, communications, and other tasks leading up to delivery of the final comprehensive expert witness report and a supplemental and/or rebuttal report, if any, shall be paid at the hourly rate of \$400.00 for all time reasonably spent, with a cap of \$10,000.00. The provisions of this agreement, including those related to payment, apply to work performed prior to the date this agreement bears. Any additional expert witness reports shall be provided no later than 15 days prior to the date set by the court for providing same; however, the client-attorneys can accelerate the due date in the event there are emergent proceedings or other time-sensitive internal and external deadlines.

Payment for additional expert services above and beyond that provided to prepare the comprehensive expert witness report and additional supplemental or rebuttal reports as outlined above, as deemed necessary for the litigation by the client-attorneys, which might include, for example and among other items, attending meetings and providing advice and consultation, sitting for a deposition, testifying at trial, etc., shall be at the hourly rate of \$400.00 for all time reasonably spent on this matter, including but not limited to preparation of any additional related reports, advice and consultation, and preparation for and attendance at any appearances for deposition or trial.

The hourly rate set forth herein shall be increased by \$15 on January 1 of each year, beginning with January 1, 2025.

Periodically and upon respective completion, you shall invoice the client-attorneys for hours spent on the comprehensive expert witness report, and separately for all hours spent on any supplemental or rebuttal expert report. subject to the respective caps set forth above. For hours spent on this matter outside of preparation of the comprehensive expert witness report

WEISSMAN & MINTZ LLC  
BROMBERG LAW LLC

Sam Wang  
January 22, 2024

and any supplemental or rebuttal expert report, you shall invoice the client-attorneys periodically for all time billed. The invoice shall be sent to the client-attorneys each time you have reached 20 hours of work on the matter, and at that time you must seek and receive written approval from the client-attorneys for further work. We may agree to invoices and approval for further work at a different hourly threshold or interval, or to monthly billing upon the written agreement of all parties. Payment for all reasonable time set forth in such invoices shall be made within 30 days of receipt of same.

You agree to confer with us prior to incurring any additional fees and expenses., Consistent with the last sentence of § 1 of this Agreement, neither your entitlement to be compensated nor the amount of your compensation is dependent on the particular conclusions you reach.

You also will be reimbursed for travel expenses for any travel outside the metropolitan area of your residence and other expenses reasonably incurred in connection with the engagement. Please include such reasonable expenses in your invoices to the undersigned.

You agree to provide, upon request, budgets or estimates of expenses for your work as an expert. To the extent that you anticipate any large expenses that may need to be paid to outside vendors as necessary to complete your research and related expert witness reports, you shall first notify and receive permission for such expenses and engagements from the client-attorneys, and the parties shall engage in good faith discussions as to whether such expenses shall be incurred and whether they should be invoiced to You or billed directly.

## **7. Confidentiality and Non-Disclosure**

Independent of, and in addition to, any formal protective orders, you agree to keep all information regarding this matter, including the fact of your engagement, strictly confidential, and you shall not disclose such information to anyone outside of employees, contractors or assistants whose services you may use in completing your work under this Agreement, Plaintiffs, and their legal counsel, nor shall you use such information for any purpose other than in discharge of your engagement herein. This undertaking of confidentiality and non-disclosure will continue even after the engagement is completed or the case resolved. Notwithstanding the foregoing, you may disclose the fact of your engagement only after the defendants in this matter are formally made aware of your engagement.

You understand and agree that among the Confidential Information that must be kept in strict confidence includes, but is not limited to, the following: All nonpublic information obtained from client-attorneys and/or their agents, any communications with and information, data, and documents received from or shared with client-attorneys and/or their agents, your and your employees / contractors / assistants' notes, analysis, research, etc. in connection with this matter, your and your employees / contractors / assistants' selections of which otherwise public information you or they think are relevant, your and your employees / contractors / assistants' own impressions and analyses of otherwise public or nonpublic information, and any other documents, materials, and information which would reasonably be considered to be confidential.

WEISSMAN & MINTZ LLC  
BROMBERG LAW LLC

Sam Wang  
January 22, 2024

You agree to protect all Confidential Information against unauthorized disclosure using the same degree of care, but no less than a reasonable degree of care, as you do to protect your own confidential information of like nature. You shall not discuss this Confidential Information with or supply any documents containing Confidential Information to anyone not authorized by this agreement, unless you have obtained the prior written consent of the client-attorneys, or are otherwise forced, compelled, or required to disclose such information by operation of law or applicable government authority, or in response to a lawful subpoena.

You shall not transmit any documents containing Confidential Information electronically to any individual without suitable encryptions/password protection to prevent use or access in violation of this confidentiality clause of this Agreement.

If you must disclose Confidential Information to employees, contractors or assistants whose services you may use in completing your work under this Agreement and who have a legitimate need to know about the Confidential Information, prior to doing so you shall inform the recipient in writing that the documents and/or information are confidential pursuant to the terms of this agreement, shall not be disclosed to any other person, shall obtain the signature of the person to whom Confidential Information is disclosed on the Undertaking Form annexed hereto, and immediately return the signed Undertaking Form to Plaintiffs' counsel.

You agree that upon conclusion of this engagement you will deliver to us any and all notes, documents or other materials (including electronic data and information) that you received, generated, or developed during the course of this engagement. If you have any questions now or in the future about what you can or cannot say about this case or your engagement, you agree to inquire of Plaintiffs' counsel before saying anything. In order to be effective, any permission to disclose such information shall be in writing, explicit, and signed by the undersigned prior to disclosure.

If you are served with a request or demand to disclose information related to this case or your engagement (e.g., a subpoena), you agree to immediately notify the client-attorneys of such request or demand before providing any such information. The Plaintiffs and the client-attorneys reserve the right to object to and litigate any proceedings relating to the effectiveness or enforcement of the request.

## **8. Conflicts of Interest**

We understand that you have performed a conflicts of interest check to determine whether there is any impediment to your engagement, and you have informed us that there is none. In addition, you have confirmed that you have not been previously retained by any other client on an engagement involving the same subject matter as this engagement, where your prior work would in any way undermine your ability to perform this engagement.

During such time that you are providing services in this matter, you will not work for or assist another person or entity in a proceeding in which any Plaintiff is an adverse party, such as a lawsuit, arbitration, or contested regulatory proceeding, nor shall you work for or assist another person or entity in preparing an adversarial proceeding against any Plaintiff. Plaintiffs do not



WEISSMAN & MINTZ LLC  
BROMBERG LAW LLC

Sam Wang  
January 22, 2024

waive or consent to any future conflicts that may arise as a result of your engagement in this matter and requires that you avoid any such conflicts. In no event shall you be permitted to use or disclose any of Plaintiffs' confidential information for the benefit of other clients.

The client attorneys will keep you informed if any additional parties are added.

**9. Designation as Testifying Expert**

Until you are designated as a testifying expert to present evidence at trial or preliminary injunction hearing, you will solely be serving in a consulting capacity and the fact of your engagement will not be known to the other parties in the case. In the event your report and opinions in this matter are disclosed and you are later designated as a trial witness, you agree now to make best efforts to be available to testify in any deposition, trial, hearing, arbitration, mediation or other proceeding that may be scheduled, provided that you are given reasonable notice of such an appearance. If you are designated as a testifying expert, you likely will be required to share with opposing counsel all of the materials on which you relied in forming your opinions—and you may be required to share all materials that you reviewed—including your notes and drafts.

You understand the importance to client-attorneys of maintaining continuity in relying upon the same expert witness at various stages of litigation, and agree to be available for all court and other appearances deemed necessary by the client-attorneys to comply with all court deadlines and internal deadlines set by the client-attorneys. The duration of services shall continue through the term of litigation and disposition of the court, and any subsequent remands, or until written release by the client-attorneys.

**10. Jurisdiction**

This agreement and contractual relationship shall be interpreted under the laws of the State of New Jersey. Any litigation under this agreement shall be resolved in the trial courts of the State of New Jersey.

If this letter accurately sets forth your understanding of the terms and conditions of your engagement, please countersign below and return via email.

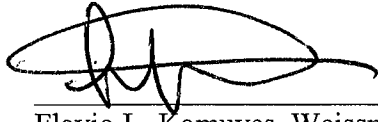
We look forward to working with you in this matter and are grateful for your expertise.

[Signature Page Follows]

WEISSMAN & MINTZ LLC  
BROMBERG LAW LLC

Sam Wang  
January 22, 2024

Many thanks,



1/23/2024

Flavio L. Komuves, Weissman & Mintz LLC



1/22/2024

Yael Bromberg, Bromberg Law LLC

THE FOREGOING TERMS AND CONDITIONS HAVE BEEN REVIEWED AND ARE  
ACCEPTED.

**Sam Wang**

By: Samuel S.-H. Wang  
Sam Wang

Dated: January 23, 2024

## Undertaking Form

### Confidentiality Agreement

The undersigned shall maintain Confidential Information in strict confidence. Confidential Information includes, but is not limited to, the following: All nonpublic information obtained from client-attorneys and/or their agents, any communications with and information, data, and documents received from or shared with client-attorneys and/or their agents, the consultant's or your notes, analysis, research, etc. in connection with this matter, the consultant's or your selections of which otherwise public information he or you think are relevant, the consultant's or your own impressions and analyses of otherwise public or nonpublic information, and any other documents, materials, and information which would reasonably be considered to be confidential.

The undersigned agrees to protect all Confidential Information against unauthorized disclosure using the same degree of care, but no less than a reasonable degree of care, as they do to protect their own confidential information of like nature. The undersigned shall not discuss any Confidential Information with or supply any documents containing Confidential Information to anyone not authorized by this agreement, unless the undersigned has obtained the prior written consent of the client-attorneys, or is otherwise forced, compelled, or required to disclose such information by operation of law or applicable government authority, or in response to a lawful subpoena. In such instances where such disclosure is force, compelled, or required by law, the undersigned will discuss same first with the client-attorneys prior to providing any such Confidential Information.

The undersigned shall not transmit any documents containing Confidential Information electronically to any individual without suitable encryption/password protection to prevent use or access in violation of this confidentiality clause of this Agreement.

### Undertaking

The following individuals hereby acknowledge that they have read the above Confidentiality Agreement, and will comply with all of the terms and conditions agreed therein including, but not limited to, not disclosing any of the Confidential Information to any person or entity not authorized under this Agreement.

	NAME (Print)	Title	Signature	Date
1.	Samuel S.-H. Wang	Professor	<i>Samuel S.-H. Wang</i>	1/23/2024
2.	<hr/>			

3. \_\_\_\_\_

4. \_\_\_\_\_

5. \_\_\_\_\_

# EXHIBIT E

Sam Wang, Ph.D.

INVOICE / 2-15-2024

283 Nassau Street  
Princeton, NJ 08540

**Weissman & Mintz LLC**

220 Davidson Avenue, Suite 410

Somerset, NJ 08873

**BALANCE DUE**

Upon Receipt

**\$9,400.00**

Notes

For detailed time accounting, see attached sheet.

Item Description	Quantity	Price Per	Total
Expert report preparation, 12/29/2023-2/13/2024	23.5 hr	\$400/hr	\$9,400.00
		Subtotal	\$9,400.00
		Tax - 0%	\$0.00
TOTAL			\$9,400.00

<b>NJ Kim case</b>				
<b>Sam</b>		<b>time</b>	<b>hours</b>	
29-Dec-2023		11:00 AM	1.00	report preparation
20-Jan-2024		11:00 AM	3.00	report preparation
20-Jan-2024		10:00 PM	1.20	report preparation
21-Jan-2024		4:45 AM	1.20	report preparation
21-Jan-2024		8:00 AM	0.60	report preparation
21-Jan-2024		11:30 AM	1.00	report preparation
21-Jan-2024		7:45 PM	0.60	review Rubin report
23-Jan-2024		5:30 AM	1.20	report preparation
23-Jan-2024		2:15 PM	0.90	report preparation
23-Jan-2024		9:30 PM	1.10	report preparation
24-Jan-2024		2:30 PM	2.70	discussion
24-Jan-2024		9:40 PM	0.40	report preparation
25-Jan-2024		5:30 AM	2.60	report preparation
1-Feb-2024		2:45 PM	0.30	confer with Brett Pugach
2-Feb-2024		9:00 AM	0.20	confer with Julia Sass Rubin
2-Feb-2024		12:30 PM	0.20	report preparation
4-Feb-2024		12:00 PM	1.10	confer with Brett Pugach
4-Feb-2024		2:45 PM	0.90	report preparation
4-Feb-2024		9:40 PM	0.30	confer with Julia Sass Rubin
4-Feb-2024		10:15 PM	0.50	report preparation
8-Feb-2024		3:45 PM	0.40	confer with Brett Pugach
8-Feb-2024		5:00 PM	0.30	report preparation
11-Feb-2024		9:45 AM	1.30	report preparation
13-Feb-2024		5:00 PM	0.50	report preparation
		TOTAL HOURS	23.50	
		TOTAL \$	\$9,400	



# **EXHIBIT F**

## WEISSMAN & MINTZ LLC

STEVEN P. WEISSMAN  
ANNMARIE PINARSKI  
WILLIAM G. SCHIMMEL  
IRA W. MINTZ  
FLAVIO L. KOMUVES  
JASON L. JONES  
JUSTIN SCHWAM  
PATRICIA A. VILLANUEVA

Of Counsel  
ROSEMARIE CIPPARULO  
BRETT M. PUGACH  
ADAM M. GORDON  
Yael Bromberg

Counsel  
DAVID A. MINTZ\*

\* ADMITTED TO PRACTICE ONLY IN NEW YORK

ATTORNEYS AT LAW  
220 DAVIDSON AVENUE  
SUITE 410  
SOMERSET, NEW JERSEY 08873  
(732) 563-4565  
FAX (732) 560-9779  
www.weissmanmintz.com

90 BROAD STREET  
SUITE 254  
NEW YORK, NEW YORK 10004  
(212) 509-0918  
JOEL N. WEISSMAN (1957-1998)  
MARK ROSENBAUM (1955-2002)



## BROMBERG LAW LLC

Yael Bromberg, Esq., Principal\*  
T: (212) 859-5083 | F: (201) 586-0427  
ybromberg@bromberglawllc.com

43 West 43<sup>rd</sup> Street, Suite 32  
New York, NY 10036-7424

P.O. Box 1131  
Glen Rock, NJ 07452-1131

CONFIDENTIAL COMMUNICATION

January 11, 2024

### VIA ELECTRONIC MAIL

Josh Pasek  
105 S. State St., 5413 North Quad  
Ann Arbor, MI 48109

**Re: Andy Kim, Voting Rights Litigation**

Dear Mr. Pasek,

This will confirm that we have engaged you to provide analysis and/or expert testimony regarding the impact of ballot placement and design laws and practices with respect to New Jersey primary elections.

This letter sets forth the terms and conditions of the engagement. Unless later modified in writing, this letter will remain in effect through the duration of the engagement and certain provisions will survive the completion of the engagement.

### **1. Nature of Engagement**

You have been retained by Weissman & Mintz LLC and Bromberg Law LLC (“client-attorneys”) in our capacity as counsel in the above-referenced matter in relation to litigation that is anticipated to be filed in Federal District Court in New Jersey, on behalf of Andy Kim and other potential plaintiffs. Your engagement is as an independent contractor and not as an employee of any plaintiff (“Plaintiff”) or of the client-attorneys in any current or future litigation that may result from the above-referenced matter. Although fees for your work may be paid

WEISSMAN & MINTZ LLC  
BROMBERG LAW LLC

Josh Pasek  
January 11, 2024

directly by outside entities such as a legal defense fund or one or more clients, this billing arrangement does not alter the fact that you have been retained by Weissman & Mintz LLC and Bromberg Law LLC, from whom you will receive authorizations and to whom you will report. Payment to you is not dependent upon the findings which you render, nor on the outcome of any legal action, or the amount or terms of any settlement of the underlying legal cause, nor on any contractual arrangement between the client-attorneys and any other person or party.

## **2. Purpose of Engagement**

The purpose of your engagement is to provide advice and consultation in your field of expertise and to form expert opinions that may be presented in an expert report regarding the effect of ballot placement and design laws and practices with respect to New Jersey primary elections. That includes, but is not limited to ballot ordering effect, primacy effect, and other visual design characteristics which impact voter behavior. You have been retained based on your specialized knowledge, skill, experience, training, and education to assist us as counsel in our effort to understand certain technical or specialized issues in the case, and to present opinions in a report that will assist the Court in understanding the evidence or in determining the facts that are disputed by the parties. At all times we expect that you will exercise your best independent and professional judgment with respect to all aspects of this engagement, and that you will provide complete, accurate, and honest opinions that are not subjective or biased in any way. We want and expect you to be entirely objective and independent.

## **3. Protocol for Forming Expert Opinions**

In forming any opinions and consulting on the subject matter of your engagement, we ask that you (a) inform yourself of all facts and information that you deem sufficient for purposes of forming such opinions, (b) base your opinions on principles and methods that are deemed reliable in your field of expertise, and (c) apply those principles and methods in a reliable fashion to the facts presented in this case. We will not restrict in any way your access to whatever facts and information you desire to review in forming your opinions. Indeed, we will ensure that you are provided whatever materials and information you deem appropriate to form an independent, reliable, and objective opinion.

## **4. Facts & Information Upon Which You Rely**

Regarding the facts and data on which you are consulting and any expert opinions you form are based, it is very important that you preserve and maintain a record of what particular facts and information are made available to you. Should you be designated as a witness to present evidence at trial, you may be required to disclose in a comprehensive manner all such facts and information. You also may be required to affirm, if true, that all such facts and information on which you relied in forming your opinions generally are of the type that experts in your field reasonably rely upon in forming opinions or inferences.

For this reason, we will monitor closely what materials you are provided. We will be keeping close track of the particular facts and information that are made available to you, and you agree to keep us informed of the specific analyses or investigations that you intend

WEISSMAN & MINTZ LLC  
BROMBERG LAW LLC

Josh Pasek  
January 11, 2024

to undertake before they are commenced. Should you consult or consider additional materials or information after your opinion is disclosed, we may need to supplement our disclosures. Accordingly, you agree to keep us apprised of any such materials or information that you may take into consideration, even after your opinion is finalized.

**5. Contacts at Law Firms**

Your contacts for this engagement will be Weissman and Mintz, LLC, including Flavio L. Komuves, Member and Brett M. Pugach, Of Counsel, as well as Bromberg Law LLC, including Yael Bromberg, Principal. The client-attorneys are co-counsel in this matter.

**6. Compensation and Reimbursement of Expenses**

You will prepare a comprehensive expert witness report outlining your research, studies, and conclusions pertaining to ballot ordering effects and other behavioral effects related to the visual display of ballot design features prevalent in New Jersey's primary election ballots. Unless otherwise agreed to by the parties, the expert report shall be provided to the client-attorneys no later than January 29, 2024. Within this comprehensive report, you shall provide: (a) an analysis based on existing reports and literature as it relates to New Jersey's primary election ballots; (b) an analysis of other aspects of behavior science pertaining to ballot ordering and visual display of ballot design features as it relates to New Jersey's primary election ballot; and (c) an analysis based on further studies and research concerning New Jersey's primary election ballots. Payment for your services in connection with the comprehensive expert witness report, including all work, studies, research, analysis, communications, and other tasks leading up to delivery of the final comprehensive expert witness report shall be paid at the hourly rate of \$450.00 for all time reasonably spent, with a cap of \$17,000.00. Additionally, payment for your services in connection with any supplemental or rebuttal expert witness report shall be paid at the hourly rate of \$450.00 for all time reasonably spent, with a cap of \$5,000.00. However, if the supplemental or rebuttal expert witness report, to the extent that one is necessary, requires analysis of new data sets introduced by defendants in this matter, which entails hours of work that would far exceed a \$5,000.00 cap, the parties agree to engage in good faith efforts to consider an additional payment amount in advance of undertaking work on the supplemental or rebuttal expert witness report. This hourly rate and associated cap shall include all supplemental research, communications, drafting, and other work spent in preparation of same above and beyond that provided to prepare the comprehensive expert witness report, through the date that the additional, supplemental or rebuttal expert witness report is finalized and sent to the client-attorneys. Any additional expert witness reports shall be provided no later than 15 days prior to the date set by the court for providing same; however, the client-attorneys can accelerate the due date in the event there are emergent proceedings or other time-sensitive internal and external deadlines.

Payment for additional expert services above and beyond that provided to prepare the comprehensive expert witness report and additional supplemental or rebuttal reports as outlined above, as deemed necessary for the litigation by the client-attorneys, which might

WEISSMAN & MINTZ LLC  
BROMBERG LAW LLC

Josh Pasek  
January 11, 2024

include, for example and among other items, attending meetings and providing advice and consultation, sitting for a deposition, testifying at trial, etc., shall be at the hourly rate of \$450.00 for all time reasonably spent on this matter, including but not limited to preparation of any additional related reports, advice and consultation, and preparation for and attendance at any appearances for deposition or trial.

The hourly rate set forth herein shall be increased by \$15 on January 1 of each year, beginning with January 1, 2025.

Periodically and upon respective completion, you shall invoice the client-attorneys for hours spent on the comprehensive expert witness report, and separately for all hours spent on any supplemental or rebuttal expert report. subject to the respective caps set forth above. For hours spent on this matter outside of preparation of the comprehensive expert witness report and any supplemental or rebuttal expert report, you shall invoice the client-attorneys periodically for all time billed. The invoice shall be sent to the client-attorneys each time you have reached 20 hours of work on the matter, and at that time you must seek and receive written approval from the client-attorneys for further work. We may agree to invoices and approval for further work at a different hourly threshold or interval, or to monthly billing upon the written agreement of all parties. Payment for all reasonable time set forth in such invoices shall be made within 30 days of receipt of same.

You agree to confer with us prior to incurring any additional fees and expenses, including the retention of any of your colleagues, that may be necessary to complete your engagement. Consistent with the last sentence of § 1 of this Agreement, neither your entitlement to be compensated nor the amount of your compensation is dependent on the particular conclusions you reach.

You also will be reimbursed for travel expenses for any travel outside the metropolitan area of your residence and other expenses reasonably incurred in connection with the engagement. Please include such reasonable expenses in your invoices to the undersigned.

You agree to provide, upon request, budgets or estimates of expenses for your work as an expert. To the extent that you anticipate any large expenses that may need to be paid to outside vendors as necessary to complete your research and related expert witness reports, you shall first notify and receive permission for such expenses and engagements from the client-attorneys, and the parties shall engage in good faith discussions as to whether such expenses shall be incurred and whether they should be invoiced to You or billed directly.

## **7. Confidentiality and Non-Disclosure**

Independent of, and in addition to, any formal protective orders, you agree to keep all information regarding this matter, including the fact of your engagement, strictly confidential, and you shall not disclose such information to anyone outside of employees, contractors or assistants whose services you may use in completing your work under this Agreement, Plaintiffs, and their legal counsel, nor shall you use such information for any purpose other than in discharge of your engagement herein. This undertaking of confidentiality and non-disclosure will continue

WEISSMAN & MINTZ LLC  
BROMBERG LAW LLC

Josh Pasek  
January 11, 2024

even after the engagement is completed or the case resolved. Notwithstanding the foregoing, you may disclose the fact of your engagement only after the defendants in this matter are formally made aware of your engagement. You may also, and only to the extent required, make a limited disclosure to the University of Michigan, for administrative purposes.

You understand and agree that among the Confidential Information that must be kept in strict confidence includes, but is not limited to, the following: All nonpublic information obtained from client-attorneys and/or their agents, any communications with and information, data, and documents received from or shared with client-attorneys and/or their agents, your and your employees / contractors / assistants' notes, analysis, research, etc. in connection with this matter, your and your employees / contractors / assistants' selections of which otherwise public information you or they think are relevant, your and your employees / contractors / assistants' own impressions and analyses of otherwise public or nonpublic information, and any other documents, materials, and information which would reasonably be considered to be confidential.

You agree to protect all Confidential Information against unauthorized disclosure using the same degree of care, but no less than a reasonable degree of care, as you do to protect your own confidential information of like nature. You shall not discuss this Confidential Information with or supply any documents containing Confidential Information to anyone not authorized by this agreement, unless you have obtained the prior written consent of the client-attorneys, or are otherwise forced, compelled, or required to disclose such information by operation of law or applicable government authority, or in response to a lawful subpoena.

You shall not transmit any documents containing Confidential Information electronically to any individual without suitable encryptions/password protection to prevent use or access in violation of this confidentiality clause of this Agreement.

If you must disclose Confidential Information to employees, contractors or assistants whose services you may use in completing your work under this Agreement and who have a legitimate need to know about the Confidential Information, prior to doing so you shall inform the recipient in writing that the documents and/or information are confidential pursuant to the terms of this agreement, shall not be disclosed to any other person, shall obtain the signature of the person to whom Confidential Information is disclosed on the Undertaking Form annexed hereto, and immediately return the signed Undertaking Form to Plaintiffs' counsel.

You agree that upon conclusion of this engagement you will deliver to us any and all notes, documents or other materials (including electronic data and information) that you received, generated, or developed during the course of this engagement. If you have any questions now or in the future about what you can or cannot say about this case or your engagement, you agree to inquire of Plaintiffs' counsel before saying anything. In order to be effective, any permission to disclose such information shall be in writing, explicit, and signed by the undersigned prior to disclosure.

If you are served with a request or demand to disclose information related to this case or your engagement (e.g., a subpoena), you agree to immediately notify the client-attorneys of such request or demand before providing any such information. The Plaintiffs and the client-attorneys

WEISSMAN & MINTZ LLC  
BROMBERG LAW LLC

Josh Pasek  
January 11, 2024

reserve the right to object to and litigate any proceedings relating to the effectiveness or enforcement of the request.

**8. Conflicts of Interest**

We understand that you have performed a conflicts of interest check to determine whether there is any impediment to your engagement, and you have informed us that there is none. In addition, you have confirmed that you have not been previously retained by any other client on an engagement involving the same subject matter as this engagement, where your prior work would in any way undermine your ability to perform this engagement.

During such time that you are providing services in this matter, you will not work for or assist another person or entity in a proceeding in which any Plaintiff is an adverse party, such as a lawsuit, arbitration, or contested regulatory proceeding, nor shall you work for or assist another person or entity in preparing an adversarial proceeding against any Plaintiff. Plaintiffs do not waive or consent to any future conflicts that may arise as a result of your engagement in this matter and requires that you avoid any such conflicts. In no event shall you be permitted to use or disclose any of Plaintiffs' confidential information for the benefit of other clients.

The client attorneys will keep you informed if any additional parties are added.

**9. Designation as Testifying Expert**

Until you are designated as a testifying expert to present evidence at trial or preliminary injunction hearing, you will solely be serving in a consulting capacity and the fact of your engagement will not be known to the other parties in the case. In the event your report and opinions in this matter are disclosed and you are later designated as a trial witness, you agree now to make best efforts to be available to testify in any deposition, trial, hearing, arbitration, mediation or other proceeding that may be scheduled, provided that you are given reasonable notice of such an appearance. If you are designated as a testifying expert, you likely will be required to share with opposing counsel all of the materials on which you relied in forming your opinions—and you may be required to share all materials that you reviewed—including your notes and drafts.

You understand the importance to client-attorneys of maintaining continuity in relying upon the same expert witness at various stages of litigation, and agree to be available for all court and other appearances deemed necessary by the client-attorneys to comply with all court deadlines and internal deadlines set by the client-attorneys. The duration of services shall continue through the term of litigation and disposition of the court, and any subsequent remands, or until written release by the client-attorneys.

**10. Jurisdiction**

This agreement and contractual relationship shall be interpreted under the laws of the State of New Jersey. Any litigation under this agreement shall be resolved in the trial courts of the State of New Jersey.



WEISSMAN & MINTZ LLC  
BROMBERG LAW LLC

Josh Pasek  
January 11, 2024

If this letter accurately sets forth your understanding of the terms and conditions of your engagement, please countersign below and return via email.

We look forward to working with you in this matter and are grateful for your expertise.  
[Signature Page Follows]

Many thanks,

  
Flavio L. Komuves, Weissman & Mintz LLC 1/12/2024




1/12/2024

Yael Bromberg, Bromberg Law LLC

THE FOREGOING TERMS AND CONDITIONS HAVE BEEN REVIEWED AND ARE  
ACCEPTED.

Josh Pasek

By:   
Josh Pasek

Dated: January 23, 2024



## Undertaking Form

### Confidentiality Agreement


The undersigned shall maintain Confidential Information in strict confidence. Confidential Information includes, but is not limited to, the following: All nonpublic information obtained from client-attorneys and/or their agents, any communications with and information, data, and documents received from or shared with client-attorneys and/or their agents, the consultant's or your notes, analysis, research, etc. in connection with this matter, the consultant's or your selections of which otherwise public information he or you think are relevant, the consultant's or your own impressions and analyses of otherwise public or nonpublic information, and any other documents, materials, and information which would reasonably be considered to be confidential.

The undersigned agrees to protect all Confidential Information against unauthorized disclosure using the same degree of care, but no less than a reasonable degree of care, as they do to protect their own confidential information of like nature. The undersigned shall not discuss any Confidential Information with or supply any documents containing Confidential Information to anyone not authorized by this agreement, unless the undersigned has obtained the prior written consent of the client-attorneys, or is otherwise forced, compelled, or required to disclose such information by operation of law or applicable government authority, or in response to a lawful subpoena. In such instances where such disclosure is force, compelled, or required by law, the undersigned will discuss same first with the client-attorneys prior to providing any such Confidential Information.

The undersigned shall not transmit any documents containing Confidential Information electronically to any individual without suitable encryption/password protection to prevent use or access in violation of this confidentiality clause of this Agreement.

### Undertaking

The following individuals hereby acknowledge that they have read the above Confidentiality Agreement, and will comply with all of the terms and conditions agreed therein including, but not limited to, not disclosing any of the Confidential Information to any person or entity not authorized under this Agreement.

	NAME (Print)	Title	Signature	Date
1.	Josh Pasek			January 23, 2024
2.				

3. \_\_\_\_\_

4. \_\_\_\_\_

5. \_\_\_\_\_

# **EXHIBIT G**

## WEISSMAN & MINTZ LLC

STEVEN P. WEISSMAN  
ANNMARIE PINARSKI  
WILLIAM G. SCHIMMEL  
IRA W. MINTZ  
FLAVIO L. KOMUVES  
JASON L. JONES  
JUSTIN SCHWAM  
PATRICIA A. VILLANUEVA

Of Counsel  
ROSEMARIE CIPPARULO  
BRETT M. PUGACH  
ADAM M. GORDON  
Yael Bromberg

Counsel  
DAVID A. MINTZ\*

\*ADMITTED TO PRACTICE ONLY IN NEW YORK

ATTORNEYS AT LAW  
220 DAVIDSON AVENUE  
SUITE 410  
SOMERSET, NEW JERSEY 08873  
(732) 563-4565  
FAX (732) 560-9779  
[www.weissmanmintz.com](http://www.weissmanmintz.com)

90 BROAD STREET  
SUITE 254  
NEW YORK, NEW YORK 10004  
(212) 509-0918  
JOEL N. WEISSMAN (1957-1998)  
MARK ROSENBAUM (1955-2002)



## BROMBERG LAW LLC

Yael Bromberg, Esq., Principal\*  
T: (212) 859-5083 | F: (201) 586-0427  
[ybromberg@bromberglawllc.com](mailto:ybromberg@bromberglawllc.com)

43 West 43<sup>rd</sup> Street, Suite 32  
New York, NY 10036-7424

P.O. Box 1131  
Glen Rock, NJ 07452-1131

CONFIDENTIAL COMMUNICATION

January 22, 2024

### VIA ELECTRONIC MAIL

Julia Sass Rubin  
538, Civic Square Building  
New Brunswick, NJ 08901

**Re: Andy Kim, Voting Rights Litigation**

Dear Dr. Rubin:

This will confirm that we have engaged you to provide analysis and/or expert testimony regarding the impact of ballot placement and design laws and practices with respect to New Jersey primary elections.

This letter sets forth the terms and conditions of the engagement. Unless later modified in writing, this letter will remain in effect through the duration of the engagement and certain provisions will survive the completion of the engagement.

### **1. Nature of Engagement**

You have been retained by Weissman & Mintz LLC and Bromberg Law LLC ("client-attorneys") in our capacity as counsel in the above-referenced matter in relation to litigation that is anticipated to be filed in Federal District Court in New Jersey, on behalf of Andy Kim and other potential plaintiffs. Your engagement is as an independent contractor and not as an employee of any plaintiff ("Plaintiff") or of the client-attorneys in any current or future litigation that may result from the above-referenced matter. Although fees for your work may be paid

WEISSMAN & MINTZ LLC  
BROMBERG LAW LLC

Julia Sass Rubin  
January 22, 2024

directly by outside entities such as a legal defense fund or one or more clients, this billing arrangement does not alter the fact that you have been retained by Weissman & Mintz LLC and Bromberg Law LLC, from whom you will receive authorizations and to whom you will report. Payment to you is not dependent upon the findings which you render, nor on the outcome of any legal action, or the amount or terms of any settlement of the underlying legal cause, nor on any contractual arrangement between the client-attorneys and any other person or party.

**2. Purpose of Engagement**

The purpose of your engagement is to provide advice and consultation in your field of expertise and to form expert opinions that may be presented in an expert report regarding the effect of ballot placement and design laws and practices with respect to New Jersey primary elections. That includes, but is not limited to an analysis of historical primary endorsements, election results, and ballots analyzed, and related election outcomes. You have been retained based on your specialized knowledge, skill, experience, training, and education to assist us as counsel in our effort to understand certain technical or specialized issues in the case, and to present opinions in a report that will assist the Court in understanding the evidence or in determining the facts that are disputed by the parties. At all times we expect that you will exercise your best independent and professional judgment with respect to all aspects of this engagement, and that you will provide complete, accurate, and honest opinions that are not subjective or biased in any way. We want and expect you to be entirely objective and independent.

**3. Protocol for Forming Expert Opinions**

In forming any opinions and consulting on the subject matter of your engagement, we ask that you (a) inform yourself of all facts and information that you deem sufficient for purposes of forming such opinions, (b) base your opinions on principles and methods that are deemed reliable in your field of expertise, and (c) apply those principles and methods in a reliable fashion to the facts presented in this case. We will not restrict in any way your access to whatever facts and information you desire to review in forming your opinions. Indeed, we will use best efforts to ensure that you are provided whatever materials and information you deem appropriate to form an independent, reliable, and objective opinion.

**4. Facts & Information Upon Which You Rely**

Regarding the facts and data on which you are consulting and any expert opinions you form are based, it is very important that you preserve and maintain a record of what particular facts and information are made available to you. Should you be designated as a witness to present evidence at trial, you may be required to disclose in a comprehensive manner all such facts and information. You also may be required to affirm, if true, that all such facts and information on which you relied in forming your opinions generally are of the type that experts in your field reasonably rely upon in forming opinions or inferences.

For this reason, we will monitor closely what materials you are provided. We will be keeping close track of the particular facts and information that are made available to you, and you agree to keep us informed of the specific analyses or investigations that you intend

WEISSMAN & MINTZ LLC  
BROMBERG LAW LLC

Julia Sass Rubin  
January 22, 2024

to undertake before they are commenced. Should you consult or consider additional materials or information after your opinion is disclosed, we may need to supplement our disclosures. Accordingly, you agree to keep us apprised of any such materials or information that you may take into consideration, even after your opinion is finalized.

**5. Contacts at Law Firms**

Your contacts for this engagement will be Weissman and Mintz, LLC, including Flavio L. Komuves, Member and Brett M. Pugach, Of Counsel, as well as Bromberg Law LLC, including Yael Bromberg, Principal. The client-attorneys are co-counsel in this matter.

**6. Compensation and Reimbursement of Expenses**

You will prepare a comprehensive expert witness report outlining your research, studies, and conclusions pertaining to ballot display and electoral outcomes related to the visual display of ballot design features prevalent in New Jersey's primary election ballots. Unless otherwise agreed to by the parties, the expert report shall be provided to the client-attorneys no later than January 29, 2024. Payment for your services in connection with the comprehensive expert witness report, including all work, studies, research, analysis, communications, and other tasks leading up to delivery of the final comprehensive expert witness report and a supplemental and/or rebuttal report, if any, shall be paid at the hourly rate of \$400.00 for all time reasonably spent, with a cap of \$15,000. The provisions of this agreement, including but not limited to those related to payment, apply to work performed prior to the date this agreement bears. Any additional expert witness reports shall be provided no later than 15 days prior to the date set by the court for providing same; however, the client-attorneys can accelerate the due date in the event there are emergent proceedings or other time-sensitive internal and external deadlines.

Payment for additional expert services above and beyond that provided to prepare the comprehensive expert witness report and additional supplemental or rebuttal reports as outlined above, as deemed necessary for the litigation by the client-attorneys, which might include, for example and among other items, attending meetings and providing advice and consultation, sitting for a deposition, testifying at trial, etc., shall be at the hourly rate of \$400.00 for all time reasonably spent on this matter, including but not limited to preparation of any additional related reports, advice and consultation, and preparation for and attendance at any appearances for deposition or trial.

The hourly rate set forth herein shall be increased by \$15 on January 1 of each year, beginning with January 1, 2025.

Periodically and upon respective completion, you shall invoice the client-attorneys for hours spent on the comprehensive expert witness report, and separately for all hours spent on any supplemental or rebuttal expert report, subject to the respective caps set forth above. For hours spent on this matter outside of preparation of the comprehensive expert witness report and any supplemental or rebuttal expert report, you shall invoice the client-attorneys

WEISSMAN & MINTZ LLC  
BROMBERG LAW LLC

Julia Sass Rubin  
January 22, 2024

periodically for all time billed. The invoice shall be sent to the client-attorneys each time you have reached 20 hours of work on the matter, and at that time you must seek and receive written approval from the client-attorneys for further work. We may agree to invoices and approval for further work at a different hourly threshold or interval, or to monthly billing upon the written agreement of all parties. Payment for all reasonable time set forth in such invoices shall be made within 30 days of receipt of same.

You agree to confer with us prior to incurring any additional fees and expenses. Consistent with the last sentence of § 1 of this Agreement, neither your entitlement to be compensated nor the amount of your compensation is dependent on the particular conclusions you reach.

You also will be reimbursed for travel expenses for any travel outside the metropolitan area of your residence and other expenses reasonably incurred in connection with the engagement. Please include such reasonable expenses in your invoices to the undersigned.

You agree to provide, upon request, budgets or estimates of expenses for your work as an expert. To the extent that you anticipate any large expenses that may need to be paid to outside vendors as necessary to complete your research and related expert witness reports, you shall first notify and receive permission for such expenses and engagements from the client-attorneys, and the parties shall engage in good faith discussions as to whether such expenses shall be incurred and whether they should be invoiced to You or billed directly.

#### **7. Confidentiality and Non-Disclosure**

Independent of, and in addition to, any formal protective orders, you agree to keep all information regarding this matter, including the fact of your engagement, strictly confidential, and you shall not disclose such information to anyone outside of employees, contractors or assistants whose services you may use in completing your work under this Agreement, Plaintiffs, and their legal counsel, nor shall you use such information for any purpose other than in discharge of your engagement herein. This undertaking of confidentiality and non-disclosure will continue even after the engagement is completed or the case resolved. Notwithstanding the foregoing, you may disclose the fact of your engagement only after the defendants in this matter are formally made aware of your engagement.

You understand and agree that among the Confidential Information that must be kept in strict confidence includes, but is not limited to, the following: All nonpublic information obtained from client-attorneys and/or their agents, any communications with and information, data, and documents received from or shared with client-attorneys and/or their agents, your and your employees / contractors / assistants' notes, analysis, research, etc. in connection with this matter, your and your employees / contractors / assistants' selections of which otherwise public information you or they think are relevant, your and your employees / contractors / assistants' own impressions and analyses of otherwise public or nonpublic information, and any other documents, materials, and information which would reasonably be considered to be confidential.

WEISSMAN & MINTZ LLC  
BROMBERG LAW LLC

Julia Sass Rubin  
January 22, 2024

You agree to protect all Confidential Information against unauthorized disclosure using the same degree of care, but no less than a reasonable degree of care, as you do to protect your own confidential information of like nature. You shall not discuss this Confidential Information with or supply any documents containing Confidential Information to anyone not authorized by this agreement, unless you have obtained the prior written consent of the client-attorneys, or are otherwise forced, compelled, or required to disclose such information by operation of law or applicable government authority, or in response to a lawful subpoena.

You shall not transmit any documents containing Confidential Information electronically to any individual without suitable encryptions/password protection to prevent use or access in violation of this confidentiality clause of this Agreement.

If you must disclose Confidential Information to employees, contractors or assistants whose services you may use in completing your work under this Agreement and who have a legitimate need to know about the Confidential Information, prior to doing so you shall inform the recipient in writing that the documents and/or information are confidential pursuant to the terms of this agreement, shall not be disclosed to any other person, shall obtain the signature of the person to whom Confidential Information is disclosed on the Undertaking Form annexed hereto, and immediately return the signed Undertaking Form to Plaintiffs' counsel.

You agree that upon conclusion of this engagement you will deliver to us any and all notes, documents or other materials (including electronic data and information) that you received, generated, or developed during the course of this engagement. If you have any questions now or in the future about what you can or cannot say about this case or your engagement, you agree to inquire of Plaintiffs' counsel before saying anything. In order to be effective, any permission to disclose such information shall be in writing, explicit, and signed by the undersigned prior to disclosure.

If you are served with a request or demand to disclose information related to this case or your engagement (e.g., a subpoena), you agree to immediately notify the client-attorneys of such request or demand before providing any such information. The Plaintiffs and the client-attorneys reserve the right to object to and litigate any proceedings relating to the effectiveness or enforcement of the request.

#### **8. Conflicts of Interest**

We understand that you have performed a conflicts of interest check to determine whether there is any impediment to your engagement, and you have informed us that there is none. In addition, you have confirmed that you have not been previously retained by any other client on an engagement involving the same subject matter as this engagement, where your prior work would in any way undermine your ability to perform this engagement.

During such time that you are providing services in this matter, you will not work for or assist another person or entity in a proceeding in which any Plaintiff is an adverse party, such as a lawsuit, arbitration, or contested regulatory proceeding, nor shall you work for or assist another person or entity in preparing an adversarial proceeding against any Plaintiff. Plaintiffs do not



WEISSMAN & MINTZ LLC  
BROMBERG LAW LLC

Julia Sass Rubin  
January 22, 2024

waive or consent to any future conflicts that may arise as a result of your engagement in this matter and requires that you avoid any such conflicts. In no event shall you be permitted to use or disclose any of Plaintiffs' confidential information for the benefit of other clients.

The client attorneys will keep you informed if any additional parties are added.

**9. Designation as Testifying Expert**

Until you are designated as a testifying expert to present evidence at trial or preliminary injunction hearing, you will solely be serving in a consulting capacity and the fact of your engagement will not be known to the other parties in the case. In the event your report and opinions in this matter are disclosed and you are later designated as a trial witness, you agree now to make best efforts to be available to testify in any deposition, trial, hearing, arbitration, mediation or other proceeding that may be scheduled, provided that you are given reasonable notice of such an appearance. If you are designated as a testifying expert, you likely will be required to share with opposing counsel all of the materials on which you relied in forming your opinions—and you may be required to share all materials that you reviewed—including your notes and drafts.

You understand the importance to client-attorneys of maintaining continuity in relying upon the same expert witness at various stages of litigation, and agree to be available for all court and other appearances deemed necessary by the client-attorneys to comply with all court deadlines and internal deadlines set by the client-attorneys. The duration of services shall continue through the term of litigation and disposition of the court, and any subsequent remands, or until written release by the client-attorneys.

**10. Jurisdiction**

This agreement and contractual relationship shall be interpreted under the laws of the State of New Jersey. Any litigation under this agreement shall be resolved in the trial courts of the State of New Jersey.

If this letter accurately sets forth your understanding of the terms and conditions of your engagement, please countersign below and return via email.

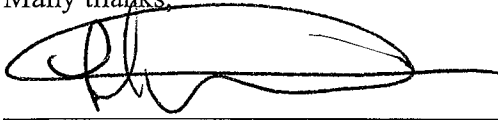
We look forward to working with you in this matter and are grateful for your expertise.

[Signature Page Follows]

WEISSMAN & MINTZ LLC  
BROMBERG LAW LLC

Julia Sass Rubin  
January 22, 2024

Many thanks,

 2/4/24

Flavio L. Komuves, Weissman & Mintz LLC



1/22/2024

Yael Bromberg, Bromberg Law LLC

THE FOREGOING TERMS AND CONDITIONS HAVE BEEN REVIEWED AND ARE  
ACCEPTED.

**Julia Sass Rubin**

By: Julia Sass Rubin  
Julia Sass Rubin

Dated: February 4, 2024

**Undertaking Form**Confidentiality Agreement

The undersigned shall maintain Confidential Information in strict confidence. Confidential Information includes, but is not limited to, the following: All nonpublic information obtained from client-attorneys and/or their agents, any communications with and information, data, and documents received from or shared with client-attorneys and/or their agents, the consultant's or your notes, analysis, research, etc. in connection with this matter, the consultant's or your selections of which otherwise public information he or you think are relevant, the consultant's or your own impressions and analyses of otherwise public or nonpublic information, and any other documents, materials, and information which would reasonably be considered to be confidential.

The undersigned agrees to protect all Confidential Information against unauthorized disclosure using the same degree of care, but no less than a reasonable degree of care, as they do to protect their own confidential information of like nature. The undersigned shall not discuss any Confidential Information with or supply any documents containing Confidential Information to anyone not authorized by this agreement, unless the undersigned has obtained the prior written consent of the client-attorneys, or is otherwise forced, compelled, or required to disclose such information by operation of law or applicable government authority, or in response to a lawful subpoena. In such instances where such disclosure is force, compelled, or required by law, the undersigned will discuss same first with the client-attorneys prior to providing any such Confidential Information.

The undersigned shall not transmit any documents containing Confidential Information electronically to any individual without suitable encryption/password protection to prevent use or access in violation of this confidentiality clause of this Agreement.

Undertaking

The following individuals hereby acknowledge that they have read the above Confidentiality Agreement, and will comply with all of the terms and conditions agreed therein including, but not limited to, not disclosing any of the Confidential Information to any person or entity not authorized under this Agreement.

	NAME (Print)	Title	Signature	Date
1.	Julia Sass Rubin		<i>Julia Sass Rubin</i>	February 4, 2024
2.	_____			

3. \_\_\_\_\_

4. \_\_\_\_\_

5. \_\_\_\_\_